

REMARKS/ARGUMENTS

Claims 35-36 and 38-73 remain in this application. Claim 37 has been canceled.

Rejections under 35 USC 112

The rejection to claim 37 have been obviated as claim 37 has been canceled.

Claim 41 has been amended as suggested by the Examiner to make it dependent on claim 71.

Claim 53 has been amended as suggested by the Examiner to change "a resting surface" and "at least one target surface" to "the resting surface" and "the target surface".

Claim 55 has been amended as suggested by the Examiner to change "a plane" to "the plane".

Claim 59 as been amended as suggested by the Examiner to make it dependent on claim 58

REJECTIONS UNDER 35 USC 102**Rejections over Murphy (6,131,361)**

Murphy et al. does not define a "guide surface" or a "target surface" that is continuous with a guide surface and which extends away from a plane of a resting surface as now claimed. Clearly, Murphy's device would not work in the same manner as the presently claimed invention.

In the present application, we define a 'target surface' as a location on the device which is first contacted by the intended material as it is positioned at a vertical, near vertical, or an angular direction prior to moving to the defined location. The target surface is continuous to the guide surface and orthogonal, or near orthogonal to the mounting surface. This surface is a part of a device which passes from a target surface to a guide surface to a resting surface as now claimed. In this variation, the target surface is parallel or nearly parallel to a resting

surface, which is located orthogonal or nearly orthogonal to the mounting surface.

At best, Murphy defines a first surface and then a resting surface. Murphy does not show a target surface continuous with a guide surface and extending away from a plane of the surface. Murphy has no guide surface or target surface. Murphy contains severe angle changes as shown in figures 14 and 15S, which are used with no defined guide or target surfaces. The Examiner defines the guide surface as a single point, whereas in this application, the guide surface is a continuous surface from the target to the resting surface.

In Murphy, the sheet of material (drywall etc) is presented to the brackets parallel or near parallel to the mounting surface (ceiling in a horizontal position). If handled by a single person the sheet material will bow and would not readily allow a user to locate the gaps between the ceiling and the resting surface of the brackets. Murphy does not show a target surface or guide surface. Even if the corner shown in Murphy's bracket is not a sharp corner it will not allow sliding of the sheet without causing damage to the material. Certainly a twelve foot sheet would not be able to be put up in this manner or by one person.

Murphy's arrangement of the keyhole slots makes it difficult to twist or turn the bracket even with a hammer as suggested by Murphy. In all likelihood this would cause damage to the sheet material as there is not enough clearance to allow for the width of the device to twist. When using the brackets as shown in Fig 17 of Murphy, unless the bracket has more than one nail holding the bracket it will twist out of the way. Even if using a screw tightened as tight as one can tighten it the brackets will move if hit by a 60lbs, or a 90lbs, or a 125lbs sheet of drywall. When installing on walls the top sheet (against the ceiling) is usually put up first with the lower sheets being put up last, not as

indicated by Murphy in Fig 6, Fig 11A and Fig 11B.

Rejections over Ewing (2,717,562)

Ewing does not define a guide surface that is continuous with a target surface as claimed. A guide surface can not be an single point or corner as suggested as such a point would not even function in the same way as a surface in the present application.

Ewing's device is not removable as claimed, it stays on the structure after use. Ewing's device is used for permanently mounting corrugated building materials. This device is used as a permanent means for attaching corrugated materials, whereas in the applicant's invention it is used to locate the material. The device of the present application is used for temporarily locating building materials prior to being affixed permanently, and is readily removed from the structure. The surfaces identified by the Examiner in Ewing are not applicable to the applicant's invention with respect to its application of building materials.

Rejections over Kelly Jr. (4,425,714)

Kelly Jr. does not define a guide surface that is continuous with a target surface as claimed. Kelly Jr.'s device is used for installing wood siding. This art does not suggest or indicate its use in installing other building materials. Instead, the cited patent defines a special tool specifically for installing siding on buildings. The design of this tool allows one to install horizontally overlapping siding, and allows for removal after attachment of the siding. In Kelly's device, the bottom of the siding is not attached to the building allows for removal of the device. If used to install other building materials in a normal manner [butt joints], one would not be able to remove the device for further use.

REJECTIONS UNDER 35 USC 103Murphy

As indicated above, Murphy does not describe or suggest a "guide surface" or a "target surface" that is continuous with a guide surface and which extends away from a plane of a resting surface as now claimed. Murphy does not recognize or suggest the importance of a guide surface or target surface.

Murphy in view of Burgess

Burgess is directed to a wood hook. Burgess does not provide any description or suggestion of a guide or target surface.

Murphy in view of Guilmette

Guilmette is directed to a brace. Guilmette does not provide any description or suggestion of a guide or target surface.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135.

Respectfully submitted

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